

## Agenda Item Cover Sheet

- ☒ Regular Item  
☐ Consent Item  
☐ Statutory Item

Item Submitted By: Lee Battle, Staff Planner  
For Council Meeting Of: Workshop Meeting, December 11, 1997  
Director Approval: \_\_\_\_\_  
City Manager Approval: \_\_\_\_\_

**Item:** Presentation of Zoning Ordinance amendment to regulate wireless telecommunication facilities in the City.

**Item Summary:**

Purpose

The purpose of this ordinance is to provide guidelines for the development of wireless telecommunication facilities (WTF's) in College Station and ensure compliance with the Telecommunications Act of 1996. This ordinance will also minimize the negative impacts of new WTF's by protecting the health and safety of residents and minimizing visual impacts. Coordination with the City of Bryan has resulted in similar draft ordinances between the two cities that will ease the development process for service providers and balance telecommunication development pressures between the cities.

A draft of the new ordinance is attached. The proposed amendment:

- Establishes three categories of WTF's and regulates two categories;
- Identifies the zoning district each category of WTF is allowed in;
- Provides setbacks;
- Limits proximity to major thoroughfares;
- Requires separation between towers;
- Establishes standards, height limits, etc.;
- Outlines review processes; and
- Defines terms.



#### The Telecommunications Act

Recent passage of the Telecommunications Act by Congress has established guidelines whereby local authorities can regulate the siting and construction of telecommunication towers. This legislation was designed to ensure growth and competition in the telecommunications industry. Recent analysis and interpretation of the 1996 act has helped to clarify when and how local planning agencies can regulate telecommunication providers. There are basically five conditions set forth in the act that affect local zoning authority:

1. *Local zoning requirements may not unreasonably discriminate among wireless telecommunications providers that compete against one another.* We are still permitted to regulate and deny towers and their locations, as long as we do not make decisions that give one provider an advantage over another.
2. *Local zoning requirements may not prohibit or have the effect of prohibiting the provision of wireless telecommunications service.* We may regulate the placement of facilities as long as we do not interfere with a carrier's ability to provide service.
3. *A local government must act within a reasonable period of time on requests for permission to place or construct wireless telecommunications facilities.* Currently cell tower requests go through the same process as other conditional uses. This method of equal treatment satisfies this requirement and takes approximately one month.
4. *Any city or county council or zoning board decision denying a request for permission to install or construct wireless telecommunications facilities must be in writing and must be based on evidence in a written record before the council or board.* If a request is denied, the motion to deny should include statements that tie the decision back to the written records (staff reports, letters of opposition, minutes, etc.). Statements made at the meeting are incorporated into the record.
5. *If a wireless telecommunications facility meets technical emissions standards set by the FCC, it is presumed safe. A local government may not deny a request to construct a facility on grounds that its radiofrequency emissions would be harmful to the environment or the health of residents if those emissions meet FCC standards.* Telecommunication facilities are required to meet FCC emissions standards, and a municipality is required to presume that those standards are safe.

While this act does protect service providers, it also affirms local zoning authority over placement and construction of telecommunication facilities and allows several areas for regulation.

#### The Current Telecommunications Ordinance

College Station's current telecommunications ordinance, adopted in May 1994, allows towers in most commercial districts, if determined to be appropriate by the Planning and Zoning Commission through a Conditional Use Permit. Recent requests for new towers under our current ordinance have proved to be controversial with the local community. Most of the concern has centered around aesthetic impact on the community and the health and safety of residents. Rapid growth in this industry is creating great demand for new facilities in College Station. Staff has been contacted by several service providers and it is likely that many more requests will be made in the near future. Staff feels the need to update the City's telecommunications ordinance to better serve this community and the service providers.

#### The New Ordinance

This ordinance regulates the siting and design of WTF's in College Station. It is the result of months of collaboration. Input for this ordinance has come from many groups including the P&Z Commission, local service providers, City of Bryan staff and Telecommunications Committee, City of College Station staff, the Community Appearance Committee, a College Station telecommunications focus group, many local residents. In addition, research into the Telecommunications Act and the ordinances of many other cities ensures that this ordinance is in



compliance with the FCC and contains elements similar to those already adopted by municipalities nationwide. Coordination with the City of Bryan has helped both cities develop ordinances that are very similar and will aid service providers entering this area. Bryan's ordinance is also currently being considered for adoption.

**Policy Issue Statement:** Applicable Visions for the 21st Century:

Health and Public Safety - Citizens benefit from a reasonably safe and secure environment.

Civic Pride - Citizens benefit from well-planned, attractive residential and commercial areas, and from preserving historic areas.

**Staff Recommendation:** Staff recommends approval.

**Related Advisory Board Recommendation:** The Planning and Zoning Commission unanimously recommended approval of the ordinance amendment on November 20.

**Council Action Options:** Approve ordinance amendment, defer action and direct staff to make changes, deny ordinance amendment and retain the current ordinance. This item will be on the regular meeting agenda for consideration.

**Supporting Materials:**

1. Draft Ordinance.
2. Supporting Literature
3. Draft minutes from P&Z meeting on November 20.